Independent Dock Workers Union, Local No. 1 (Trans Ocean Maritime Services, Inc.) *and* William J. Morgan. Case 4–CB–8000

April 27, 2000

DECISION AND ORDER

BY CHAIRMAN TRUESDALE AND MEMBERS HURTGEN AND BRAME

On June 4, 1999, Administrative Law Judge David L. Evans issued the attached decision. The Respondent filed exceptions and a supporting brief, and the General Counsel filed a brief in support of the judge's decision.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings,[1] and conclusions and to adopt the recommended Order as modified.[2]

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge and orders that the Respondent, Independent Dock Workers Union, Local No. 1, Gloucester, New Jersey, its officers, agents, and representatives shall take the action set forth in the Order as modified.

1. Insert the following as paragraph 2(f) and reletter the subsequent paragraph.

(f) Forward a sufficient number of signed copies of the notice to the Regional Director for Region 4, for posting by the Employer at its place of business, in Gloucester, New Jersey, in places where notices to employees are customarily posted, if the Employer is willing to do so, and ask the Employer to remove reference to Morgan's unlawful discharge from the Employer's files and notify Morgan that it has asked the Employer to do this.

2. Substitute the attached notice for that of the administrative law judge.

APPENDIX

NOTICE TO EMPLOYEES AND MEMBERS
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

Section 7 of the Act gives employees these rights.

To organize
To form, join, or assist any union
To bargain collectively through representatives of their own choice
To act together for other mutual aid or protection
To choose not to engage in any of these protected concerted activities.

WE WILL NOT cause, or attempt to cause, Trans Ocean Maritime Services, Inc. to discharge or otherwise discriminate against you for reasons other than your failure to pay periodic dues and initiation fees that are required as a condition of acquiring or retaining membership in Independent Dock Workers Union, Local No. 1.

WE WILL NOT in any like or related manner restrain or coerce you in the exercise of the rights guaranteed to you by Section 7 of the Act.

WE WILL make William J. Morgan whole for any loss of earnings and other benefits resulting from his discharge, less any net interim earnings, plus interest.

WE WILL remove from our files any reference to the unlawful discharge of William J. Morgan, and WE WILL notify Morgan in writing that this has been done and that his discharge will not be used against him in any way.

WE WILL ask the Employer to remove any reference to Morgan's unlawful discharge from its files and will notify Morgan that we have asked the Employer to do this.

INDEPENDENT DOCK WORKERS UNION, LOCAL NO. 1

Carmen P. Cialio Jr. and *Andrew Brenner*, *Esqs.,* for the General Counsel.
Bernard N. Katz, of Philadelphia, Pennsylvania, for the Respondent.

DECISION

STATEMENT OF THE CASE

DAVID L. EVANS, Administrative Law Judge. This case, under the National Labor Relations Act (the Act), was tried before me in Philadelphia, Pennsylvania, on February 4–5, 1999. On November 20, 1997,[1] William J. Morgan, an individual, filed the charge in Case 6–CB–8000 against Independent Dock Workers Union, Local No. 1 (the Respondent or the Union). On July 16, 1998, the General Counsel issued a complaint and notice of hearing (the complaint) alleging that the Respondent has violated Section 8(b)(1)(A) and (2) of the Act by causing, or attempting to cause, Trans Ocean Maritime Services, Inc. (the Employer) to discriminate against the Charging Party in violation of Section 8(a)(3). The Respondent denies the commission of any unfair labor practices.

[1] The Respondent has excepted to some of the judge's credibility findings. The Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Standard Dry Wall Products*, 91 NLRB 544 (1950), enfd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing the findings.

[2] The judge inadvertently omitted a required provision from his Order. We correct this omission here.

[1] All dates are in 1997, unless otherwise indicated.

On the testimony and exhibits entered at trial,[2] and on my observations of the demeanor of the witnesses,[3] and after consideration of the briefs that have been filed, I make the following

FINDINGS OF FACT

I. JURISDICTION

As the Respondent admits, the Employer is a Delaware corporation that has a pier and warehouse in Gloucester, New Jersey, where it is engaged in the warehousing and stevedoring business. During the year preceding the issuance of the complaint, in conducting those business operations, the Employer performed services valued in excess of $50,000 outside Delaware. Therefore, at all relevant times the Employer has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act. As the Respondent further admits, it is a labor organization within the meaning of Section 2(5) of the Act.

II. THE ALLEGED UNFAIR LABOR PRACTICES

A. Factual Issues

Morgan is a laborer who works as a casual employee on the docks in the Philadelphia area; he is a member of the Union. The gravamen of the General Counsel's complaint is that, for a time, the Union unlawfully caused the Employer not to employ Morgan as a casual employee because he had concertedly voiced to agents of the Union complaints about the operation of its hiring hall. More specifically, the General Counsel contends that Morgan objected to the fact that union membership, or length of union membership, was not considered in the Union's making of job referrals and that, after Morgan voiced those objections, the Respondent caused the Employer to discharge Morgan and thereafter refused to refer Morgan to jobs with the Employer. (There is no allegation that the Employer unlawfully did so; at trial, counsel for the General Counsel stated that a charge had been filed against the Employer, but the Region did not issue a complaint because there was no evidence that the Employer knew of the Union's alleged actions regarding the Charging Party.)

The Employer's operation consists of five warehouses, two ship docks, and several truck docks. The Employer has a regular work force of stevedores and other dock workers, and it hires casual employees as the needs arise. The Employer and the Union are parties to a collective-bargaining agreement that provides, inter alia, that: "The Company agrees to use casual labor supplied by the Union by means of their hiring hall." Although this is not an express exclusive hiring hall agreement, the General Counsel called Jeffrey Gillespie, president of the Employer, who testified that the Employer has historically hired casual employees only by calling the Union and asking it to refer casual employees on a day-to-day basis. Gillespie further testified that the Employer hires all casual employees who are referred to it by the Union. Gillespie also testified that if any individual applies directly to the Employer for work as a casual employee that individual is referred to the Union.

The Union's only officers are Samuel Schofield, its president, and Barbara Palmer, its secretary-treasurer. Schofield and Palmer are also paid employees of the Employer. Palmer is a warehouse foreman and regularly works on the docks and in the warehouses. According to Jeffrey Gillespie, Schofield's "primary responsibilities are to provide labor for us and help us organize our labor on a daily basis." That is, Schofield does not work on the docks, and he gets paid by the Employer only for operating the Union's hiring hall. Schofield operates the hiring hall for every week of the year except 2 weeks; during those 2 weeks Palmer operates it. The Union's office, which is the locus of its hiring hall, is located in one of the Employer's warehouses.

The Union has no written referral rules. Schofield testified that the Employer will tell him when casual employees are needed for the next day, and he, alone, decides which casual employees will work. If a casual employee is working when the Employer notifies Schofield that casual employees will be needed the next day also, Schofield will tell those already working to come back the next day, if they have the skills that the Employer needs for the next day's work. If the Employer needs additional casual employees for the next day, Schofield will consult a list that he keeps; the list is made up of names of applicants who have previously received work from, or who have sought work with, the Employer. Schofield telephones additional casual employees and tells them when to report. Some casual employees who are seeking work will call Schofield, and Schofield will tell them if work will be available the next day; if it is, Schofield may make a commitment to them over the telephone that they will be assigned the work. Individuals who are seeking work as casual employees, but who have not been previously called by Schofield, or who have not called Schofield themselves, may nevertheless come to the hiring hall during the mornings and sign a daily list that Schofield maintains. If some of the previously scheduled casual employees do not appear for work, Schofield gives the referrals to those who have appeared and signed the day's list.

Schofield acknowledged that no casual employee can work for the Employer without coming through the Union's hiring hall and receiving clearance by him (or by Palmer during the 2 weeks of the year that she operates the hiring hall). Schofield testified that he makes his referrals according to abilities and availabilities; union membership is not a factor. (Nor is seniority with the Employer a factor in making assignments; under the collective-bargaining agreement, casual employees do not accumulate seniority rights with the Employer.)

Morgan testified that on Friday, October 24, he went to the Union's office and met with Schofield. The initial purpose of the visit was to get Schofield to sign some papers that would entitle Morgan to continue his unemployment compensation. During the visit Morgan told Schofield that he had heard rumors that "new faces" were working that week. Schofield denied it. Morgan asked about work for the next week; Schofield told Morgan to call him on Sunday. Morgan did so, and Schofield then told Morgan to report for work the next day.

Morgan testified that on Monday, October 27, when he reported for work he "saw new faces that I'd never seen there before." Morgan approached one of the new casual employees and discovered that that employee had never been a member of the Union, or paid any dues, and that he had worked 2 days during the week before. Lunchtime for the employees of the Employer is from noon until 1 p.m. About 12:30, Morgan went to the Union's office where he met with Schofield; Palmer was also present. According to Morgan, he confronted Schofield:

[2] Certain passages of the transcript have been electronically reproduced. Some corrections to punctuation have been entered.

[3] Credibility resolutions are based on the demeanor of the witnesses and any other factors that I may mention.

> [A]nd I said "Yeah . . . you didn't tell me the truth. . . . Last Friday you said there were no new faces and I'm working with one of the new faces. . . . Why am I paying my Union dues? Why did I pay for a Union book? Where is my seniority?"
>
> He says, "Your seniority don't mean nothing."
>
> I said, "Mean nothing? Then why am I paying all this money if it means nothing?"
>
> He says, "If you continue bitching, you're going further down the list."
>
> . . . .
>
> I said, "Are you threatening me?"
>
> He said, "Take it as you want."
>
> And my response to him was: "Who the fuck do you think you are?"
>
> . . . .
>
> And he said, "I'm the president of this Local."
>
> . . . .
>
> I said, "What? The president of your own ass."
>
> . . . .
>
> He stood up, jumped up, threw his hands up in the air, and he said, "That's the end of the conversation. That's it."

Morgan testified that he then went back to work. A few minutes later he was approached by Palmer. According to Morgan:

> She said, "Bill, I hate[4] to tell you this, but you're fired."
>
> I said, "Fired?" I said, "For what?"
>
> [She said,] "For gross insubordination to a Union officer."
>
> . . . .
>
> I said, "I don't believe this. I don't believe this."
>
> She just went like this, rolled her eyes back and . . . said [that] Sam [Schofield] had instructed her, for her to do this, to fire me.

Morgan further testified that he then left the premises.

Morgan testified that about 2 weeks later he called Schofield and asked for a copy of the Union's constitution and bylaws and a copy of the collective-bargaining agreement between the Union and the Employer. Morgan further told Schofield that he wished to file a grievance. Schofield replied that he did not have the copies that Morgan had requested, but he also told Morgan to come to the Union's office to file the grievance. When Morgan got to the Union's office, he told Schofield that he had consulted a lawyer and the lawyer had told him that he and Schofield should "kiss and make up." Morgan testified further that:

> [I said,] "Look, we can put this thing to bed, let's kiss and make up and just forget it, and let me go back to work and I'll forget the whole incident, the last two and a-half weeks."
>
> . . . .
>
> [Schofield replied,] "I don't know what you got in mind, but do what you got to do. If you've got any questions, see my lawyer. . . . [A]s far as the constitution and by-laws, if you want them, see my lawyer."
>
> I said, "What about the grievance?"
>
> He says, "You're no longer a member of Independent Dock Workers Local No. 1." He says, "I'm not filing a grievance in your behalf."
>
> I said, "Is that your stand?"
>
> He said, "I don't know what you're up to, but . . . do what you got to do and I'll do what I got to do."

Morgan left the Union's office, and he later filed the charge here.

Morgan testified that he received no calls from, or referrals by, the Union from October 27 until some point after December 17, 1998. On that date, pursuant to a partial settlement agreement that was suggested by a Board settlement judge,[5] the Union notified the Employer that it had never had objections to the Employer's employment of Morgan and that Morgan would be immediately referred to work that was available if he presented himself to the hiring hall. Morgan thereafter received referrals from the Union, and the General Counsel makes no complaint beyond the date of the Union's letter.

The management-rights clause of the contract between the Employer and the Union specifically states that the right to discipline and discharge employees is "vested exclusively in the Company." To corroborate Morgan's testimony that despite this contractual language the Union disciplines and discharges employees, the General Counsel introduced the testimony of another casual employee, David Baldus. Baldus testified that in May 1998 he got into an altercation with Palmer. During the following week, when Baldus called Schofield to ask when he could next expect to work, Schofield told Baldus that he was "suspended" from working for the Employer because of the incident with Palmer. A few days later, Baldus called Schofield again. Baldus told Schofield that he had complained to one of the Employer's managers that a guard had told Baldus that he had been "banned from the terminal" by the Union. Baldus further told Schofield that the manager had replied to him that only management could ban someone from the terminal. Further according to Baldus' testimony, "his [Schofield's] reply was [that] I was suspended; I wasn't banned from the terminal, he says. But I'm suspended from work, I could not work." The suspension continued until September 16, 1998, when a union review board met to hear intraunion charges that Baldus and Palmer filed against each other over their altercation. The Union's review board reinstated Baldus, but without backpay. Both Schofield and Palmer were present at the Union's hearing; neither denied any part of this testimony by Baldus when they testified before me.

Schofield testified that on October 27 Morgan approached him and, in a loud voice, asked why he was paying his "fucking dues." Schofield asked what Morgan was talking about, and Morgan replied that there were casual employees working who had been working when he was not, and Morgan asked, "why wasn't I called in." Schofield replied that the casual employees who had been working had been at the hiring hall when other scheduled casual employees had not shown up, and he had put them to work. In louder tones, Morgan called Schofield a "fucking ass-hole" and a "fucking jerk-off." (Morgan denied using these last curses, but I credit Schofield.) Schofield testified that he then told Morgan to go back to work.

Schofield further testified that later in the afternoon Palmer came to the Union's office and reported to him that a dock foreman had reported to her that Morgan had left work before

[4] Certain errors in the transcript have been noted and corrected.

[5] See the Board's Rules and Regulations, Sec. 102.35(b).

the end of the shift. Schofield testified that, on receiving that report (of a report), he assumed that Morgan "[d]idn't like what I said and he quit." Schofield further testified that the only reason that he did not thereafter call Morgan to work was because he thought that Morgan had quit. Schofield also testified that when Morgan later told him that he wished to file a grievance Schofield told Morgan that the situation was not a grievance matter and that he had to file intraunion charges instead. Schofield did not deny other parts of Morgan's testimony about their exchanges after October 27.

On cross-examination, Schofield admitted that Morgan's October 27 remarks made him angry. Schofield further admitted that the Employer sends "Work Rules Violation" reports to the Union when an employee engages in misconduct such as not reporting for work as scheduled. Schofield admitted that the Union's records contain no such report for Morgan's leaving work early on October 27 (or any other disciplinary record for Morgan).

Palmer testified consistently with Schofield about what was said between Schofield and Morgan on October 27 when she was in the Union's office; specifically, Palmer testified that Morgan did use the profanity that Schofield attributed to him. Palmer denied that she thereafter had any conversations with Morgan, and she flatly denied that she told Morgan that he was "fired." Palmer further testified that she did not know that Morgan had left the job early on October 27 until a dock foreman told her.

B. Credibility Resolutions and Conclusions

I found Morgan credible in his testimony that Palmer told him on October 27 that Schofield had "fired" him for "gross insubordination to a Union officer." The complaint alleges Palmer to be an agent of the Respondent within Section 2(13) of the Act. The answer admits that Palmer is the secretary-treasurer of the Union, but it denies that she is an agent. The Respondent's constitution names three officers of the Union, to wit: the president, the vice president, and the secretary-treasurer. The Respondent has no vice president, however, Schofield and Palmer are its only officers. The constitution further states that the duties of the secretary-treasurer include, inter alia,

> (1) The Secretary-treasurer shall assist the President in the administration of the Union.
>
> (2) He shall be the chief financial officer of the Union and shall make such payment from funds with the approval of the President.
>
> . . . .
>
> (6) He shall be responsible for the proper performance of [the foregoing] duties to the President and the membership.

In view of these listed duties, in view of the fact that the Union has no officer other than the president and the secretary-treasurer, and in view of the fact that Palmer operates the Union's hiring hall regularly (2 weeks per year), I find and conclude that Palmer is an agent of the Union within Section 2(13). Therefore, the Union is bound by her conduct, including specifically her statement to Morgan that Schofield had "fired" him.[6]

Schofield testified that he did not have the authority to discharge the Employer's employees. Schofield, however, denied none of the testimony of Baldus that in March 1998 he twice told Baldus that he was "suspended" from working for the Employer. Schofield further did not deny Baldus' testimony that he (and Palmer) did not refer Baldus out for jobs thereafter, until September when the Union's review board ordered Baldus to be reinstated (albeit without backpay). Baldus' case proves that Schofield had the authority to effectively suspend casual employees; therefore, he had the authority to effectively discharge them. Additionally, the order by the Union's review board that Baldus be reinstated without backpay from his suspension by Schofield shows that the Union approved of Schofield's disciplining casual employees by affecting their terms and conditions of employment with the Employer.

Schofield did not deny Morgan's testimony that after October 27, he came to the Union's office and asked Schofield, inter alia, "let me go back to work." Schofield further did not deny Morgan's testimony that he refused, stating, "See my lawyer." Nor did Schofield deny telling Morgan at the time that he was no longer a member of the Union. Nor did Schofield deny that he refused to accept a grievance over the matter from Morgan.[7] There can be no clearer evidence that Schofield had disrupted Morgan's employment with the Employer.

I do not believe Schofield's testimony that Palmer's report of a warehouse foreman's report that Morgan had left work early was the only reason that he no longer referred Morgan to jobs with the Employer. Aside from the fact that Schofield subsequently rejected Morgan's appeal to "let me go back to work," the Respondent offers evidence of nothing that would reasonably have caused Schofield to accept the report (of a report) without inquiry. After all, Morgan was seeking more work from the Employer, not less, as Schofield well knew.

In summary, on October 27, Morgan complained that union membership should be considered in the Union's operation of its hiring hall, and he called Schofield a liar in the process. This conduct made Schofield angry and, thereafter until December 1998, Morgan received no referrals from the Union. In making his complaint to the Union, Morgan used very bad language; however, such language most probably is not unheard of on the Philadelphia docks.[8] At any rate, the Respondent does not contend that it refused to refer Morgan because of his profanity (or his calling Schofield a liar) on October 27. The Respondent contends that it did not refuse to refer Morgan at all. I have, however, rejected this defense.

Although Schofield admitted that he did not call Morgan after October 27, the Respondent contends that Morgan should have returned to the hiring hall and sought work like any other casual employee who has not been called in by Schofield.

[6] The Respondent did not object to the receipt of Morgan's testimony of what Palmer told him that Schofield had said to her. Were Palmer not an agent, Morgan's testimony of what Palmer said that Schofield had said would have been inadmissible hearsay. The failure of the Respondent to object fortifies my conclusion that Palmer was its agent.

[7] Schofield testified that he refused to accept a grievance from Morgan because his complaint was an intraunion matter over which only internal charges were appropriate. This testimony was false; Schofield admitted later in his testimony that it was not until the Baldus incident of 1998 that he learned from the Union's lawyer that intraunion charges are appropriate in such situations. Moreover, the fact that intraunion charges may also have been appropriate did not mean that a simultaneous grievance would have been inappropriate.

[8] For example, Palmer acknowledged that during her confrontation with Baldus she leaned out of a door of the Union's office and yelled at Baldus, "You better get a good fucking lawyer."

Other such casual employees, of course, have not been told that they had been "fired." The Respondent's telling Morgan that he was fired would have given Morgan reason to believe that future appearances at the hiring hall would have been futile. Indeed, and again, Morgan did return to the hiring hall 2 weeks after he was "fired," and he asked Schofield to put him back to work, but Schofield then told him to "see my lawyer."

Relying on the language of the contract between the Employer and the Union, the Respondent contends that Schofield had no authority to discharge Morgan. Despite what the contract between the Employer and the Union says, however, Gillespie (again, the Employer's president) testified that the Union does the hiring of casual employees. Moreover, Schofield confirmed that no casual employee can secure employment with the Employer without coming through him (or Palmer). All the casual employees assuredly knew this, and any casual employee, such as Morgan, would reasonably have concluded from that knowledge that if Schofield had the authority to "hire" Schofield had the authority to "fire." Schofield used this understanding, I find, to terminate the employment status of Morgan on October 27. Of course, when Schofield told Palmer to "fire" Morgan, he did not "fire" Morgan in the sense that an employer might discharge an employee. The plain meaning of the word "fire" in the context that it was used, however, was that Morgan should leave the Employer's premises immediately and that Schofield (and Palmer) were not going to give Morgan any more referrals from the hiring hall.

I find that Schofield's anger at Morgan's protected concerted complaints about the operation of the Union's hiring hall caused Schofield to effectuate the discharge of Morgan. By such conduct, I find and conclude, the Respondent caused the Employer to discriminate against an employee in violation of Section 8(a)(3), and the Respondent thereby violated Section 8(b)(1) (A) and (2).[9]

THE REMEDY

Having found that by engaging in the above-described conduct the Respondent has violated Section 8(b)(1) (A) and (2), I shall recommend that it be ordered to cease and desist from such conduct and to take certain affirmative action in order to effectuate the policies of the Act.

It is recommended that the Union be ordered to make William J. Morgan whole for any loss of pay that he may have suffered by reason of the discrimination against him by payment to him of a sum of money equal to the amount he would normally have earned as wages and any other benefits as a casual employee of the Employer from the date of his effective termination on October 27, 1997, to the date of the first job referral that he received after the Union's December 17, 1998 letter to the Employer. The loss of earnings shall be computed in the manner prescribed in *F. W. Woolworth Co.*, 90 NLRB 289 (1950), plus interest as computed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987). The Union shall also be ordered to expunge from its files any reference to Morgan's unlawful termination, and it shall be required to notify Morgan, in writing, of its actions as well as inform him that his unlawful termination shall not be used as a basis for future action against him. Furthermore, the Union shall be required to ask the Employer to remove from its files any reference to Morgan's unlawful termination, and it shall notify Morgan that it has asked his employer to do so. *Sterling Sugars*, 261 NLRB 472 (1982).

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[10]

ORDER

The Respondent, Independent Dock Workers Union, Local No. 1, Gloucester, Pennsylvania, its officers, agents, and representatives, shall

1. Cease and desist from

(a) Causing or attempting to cause Trans Ocean Maritime Services, Inc. to terminate or otherwise discriminate against William J. Morgan or any other employee for reasons other than failures of such employees to pay periodic dues and initiation fees that are required as a condition of acquiring or retaining membership in the Union.

(b) In any like or related manner restraining or coercing employees in the exercise of rights guaranteed them in Section 7 of the Act, except to the extent that such rights may be affected by an agreement requiring membership in a labor organization as a condition of employment, as authorized by Section 8(a)(3) of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Make William J. Morgan whole for any loss of pay he may have suffered as a result of the discrimination against him in the manner set forth in the remedy section of this decision.

(b) Within 14 days from the date of this Order, remove from its files any reference to the unlawful discharge of William J. Morgan, and within 3 days thereafter notify Morgan in writing that this has been done and that his discharge will not be used against him in any way.

(d) Preserve and, within 14 days of a request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of this Order.

(e) Within 14 days after service by the Region, post at its office in Gloucester, Pennsylvania, copies of the attached notice marked "Appendix."[11] Copies of the notice, on forms provided by the Regional Director for Region 4, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to members are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

[9] See *Ogden Allied Eastern States Maintenance Corp.*, 306 NLRB 545 (1992).

[10] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

[11] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

(f) Within 21 days after service by the Region, file with the Regional Director a sworn certification by a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.